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REMARKS/ARGUMENTS

With this amendment former claims 9, 10 and 17 are canceled without prejudice and new claims 22 to 24 have been added. No additional fees are required.

Claims 1, 3-7, 11, and 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Emmerson US Publication 2002/0103019.

In the Official Action, the Examiner acknowledges that this reference does not include a local mode for the play of a game and the tracking of game results in a local mode. In the Action, the Examiner submits that a local mode for a game device is notoriously well known in the art, and that Emmerson reasonably discloses the registered mode. It is requested that the Examiner furnish a teaching reference for the well known concept of a local mode as claimed in the present application. It is noted this local mode is for a game that is downloaded to a personal portable device for application on the device. Applicant is not aware of any prior art where games to be played on personal portable devices and that are downloaded to such devices have these two particular modes of application and the particular coordination as set out in claim 1.

According to the arrangement disclosed in the present application, and as claimed in independent claim 1 or the preferred dependent claims, at least one additional game is downloaded from a game server to the personal portable device. The at least one additional game includes as part thereof a tracking arrangement including a database for tracking use information of a plurality of users with respect to the play of the at least one game and to communicate the use information to the game server over the wireless communication network when the personal portable device is in communication with the game server computer.

It is respectfully submitted that the Emmerson reference does not operate on this basis, and is incapable of operating in the manner claimed. In the Emmerson reference, a user contacts a game server and a game is downloaded to the device in an encrypted manner for restricted play on the personal portable device. The downloaded game includes its own decryption process that allows the game to be effectively played on the device, and the results of the game to be encrypted for eventual communication to the game server. When the personal portable device is again in communication with the game server, the results that are encrypted are

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uploaded to the game server. As the game server already knew the user due to the first initial step of downloading the game, the game results are provided to the game server. There is no tracking arrangement that includes a database for tracking use information of a plurality of users with respect to the play of the at least one game and to communicate this use information to the game server over the wireless network when the personal portable device is in communication with the game server as required in the present claims.

Figure 3 of the Emmerson reference clearly sets forth the steps required to download a game to the user's mobile phone, and it is all based on a user making an initial game selection as indicated at step 140. At step 170 the server sends/downloads encrypted game to an operator and this is eventually provided to the user's mobile phone at 190. The user then plays the particular game and if he meets certain qualifications the game sends the encrypted results to the server (see step 230). At step 250 the server updates tables. Eventually, at step 260 the server sends an update to the user. As can be appreciated, there is no database for tracking use information of a plurality of users with respect to play of the at least one game on the personal portable device as required in the present claims. As outlined in paragraph 5 of the reference, the particular structure of Emmerson and the encryption for gaming data (i.e. the encrypted signals exchanged between the server and the cell phone) "affords a gaming environment that is relatively 'tamper proof' from an end user perspective, and thus the invention makes for realistic competition between different users."

It further states that this system is particularly effective as the outcome of game play is uploaded to the server and the server administrates the system.

According to the reference, administration of the system is by the server that computes and posts high scores or league tables and arranges further fixtures and matches. Thus the server is managing these functions and the system does not have the benefit of a local mode that will encourage game play without interaction with such a server as set out in the present claims. Furthermore, as set out in paragraph 9 of the reference, Emmerson outlines the advantages of the server doing all of this data manipulation, and in particular, the limited memory of the mobile phone is not taken up with performing of these tasks. Thus the Emmerson reference clearly teaches away from a personal portable device which can operate in a local mode and provide this data manipulation as set out in the present case.

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It is further noted that the reference, in paragraph 6, is discussing the advantages of the invention, and it states "additionally, the gaming data executable code may include one play only instructions such that the downloaded game may only be played once by the user. Accordingly, this would prevent the user from making repeated attempts at the game in order to improve his result." It is apparent that Emmerson is trying to provide a gaming environment where the game results cannot be tampered with, and that a player can only play the game in a registered mode.

As outlined in the present application, such systems appeal only to a limited small market segment, and ignore a much larger market that is associated with game play of the casual user. With the present invention, such casual users can play the game or games in local mode and improve their skill set with respect to the particular game in the local mode. They can enjoy the competition with other users of the personal portable device by playing the game in the local mode and having the results achieved in the local mode manipulated and displayed in the database associated with the particular downloaded game. In contrast to Emmerson, and in direct contradiction to the teaching thereof, local mode allows casual users to repeatedly play games and improve their skill set. The claimed invention also allows such users to play in the registered mode if they so desire. In addition, the system for use on the personal portable device allows for other game options which are also not skill based. As set out in the dependent claims, there is a sweepstake mode associated with some games that are played in registered mode where a prize is awarded based on a draw where a chance is associated with each play of the game by a particular user. Again, this is in contradiction to the rigid competition mode set out by Emmerson.

There is certainly no provision in the Emmerson reference of the tracking of use information of a plurality of users of a downloaded game in a database of the downloaded game as set out in the present application. This again would be in direct contradiction to the teaching of Emmerson where data manipulation was to be performed at the server.

By adapting the particular games to allow operation of the games in either a local or a registered mode and the tracking of use information in either of these modes, an effective system is realized that is effective for personal portable

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devices. This system allows a user to enjoy the game in a competitive environment that basically he controls (i.e. in local mode) and also provides the option for proceeding in a registered mode with other additional features. This system, and the adaption of a game to allow this to be accomplished, is in contradiction to the gaming system set out by Emmerson where encryption and tamper proofing the game results is critical. Emmerson is seeking a global competition system and is concerned with tampering of the game results on a personal portable device prior to being uploaded to a server. This is obviously important with respect to global results and the play of different users. Unfortunately, it also results in a system which appeals only to a very limited market, and typically not to a market that would play such games on a personal portable device. It is apparent the type of games that are played on such personal portable devices are greatly simplified relative to the sophisticated games provided on dedicated terminals or for users personal computers.

Dependent claim 6 has been amended and includes the restriction that the at least one game includes a game menu with a display function for displaying game use information received from said game server computer. As outlined in the present application, the display of local results also includes the cup symbol 72 provided on the game menu, and actuation of this icon provides the results for game use information received from the game server (i.e. the registered mode results). This is a simple and effective way for allowing a user of the device to review local mode results as well as registered mode results.

Dependent claim 7 clarifies that the game server computer is capable of downloading a series of games to the personal portable device and the series of games use common game menus for allowing a user to access game use information. As outlined in the present disclosure, this provides for effective manipulation of game summary data that is being tracked by the personal portable device. It also allows a user to easily move from game to game and reduce storage on the personal portable device. See page 11, lines 5 through 10, of the present specification.

In dependent claim 11, a particular advantage of the present system is claimed. According to this embodiment, the personal portable device communicates with the game server computer when the personal data assistance device is linked with a computer which connects with the game server computer and allows communication of the personal data assistant with the game server computer. In

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this embodiment, automatic linking is provided and updating is effectively provided between the personal data assistant device when linked with a computer and connected to the game server computer.

In dependent claim 12, a further embodiment is claimed wherein a plurality of games are downloaded to the personal portable device and the user is provided with several game menu options for playing of at least some of the games in a sweepstake mode, and the sweepstake mode including an entry in a draw, etc. As outlined in the present application, this ability to provide the user with game menu options allows a server to easily update games that have now been authorized for use in a sweepstake mode.

Additional dependent claims 22 through 24 have been added. Claim 22 is a further clarification of claim 21, where in local mode a user is allowed access to high scores for registered mode. In Emmerson, there are not two modes, and as such, this cannot be provided and in any event these would be clearly separated. In claim 22 the structure is further clarified in that a game screen is provided for high scores in local mode and this game screen includes an icon for accessing high scores for registered mode. This is discussed on page 8 of the present specification.

In dependent claim 23, the downloaded game to the personal portable device includes a Login screen that allows a user to login as a member for registered mode or as a guest for local mode. Game performance information is stored in a database of the at least one additional game and is accessible for display to a user of said at least one additional game.

As discussed in the application and in this response, this allows a user to effectively compete in an environment that he has established (i.e. in local mode) and also allows a user to compare his results on a global basis, and to upload any results that have been achieved in a registered mode.

Dependent claim 24 further defines the games that are downloaded that allow the preferred local and registered mode to be carried out in an effective manner.

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In view of the above, reconsideration and allowance of the application is requested.

Respectfully submitted,



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